

FOR BACKGROUND PURPOSES

THE PROTECT IP ACT: COMBATING ONLINE INFRINGEMENT

CREATING AMERICAN JOBS, PROMOTING AMERICA'S ECONOMY, PROTECTING AMERICAN CONSUMERS

FACT: Nothing in the PROTECT IP Act will allow for access to a blog to be cut.

The PROTECT IP Act: How It Works

Actions By Law Enforcement: The PROTECT IP Act authorizes the Department of Justice to file a civil action against the registrant or owner of a foreign-registered rogue website dedicated to infringing activities, or the registered domain name directly if the registrant/owner cannot be found. The court is authorized to issue a cease and desist order against the rogue website **only if it finds that the site is dedicated to infringing activities**. The definition of a site "dedicated to infringing activities" is narrowly tailored in order to capture **only the worst of the worst sites** -- those that have no other purpose than to steal American intellectual property.

The PROTECT IP Act authorizes law enforcement to serve the authorized court order on third-parties, which include Internet service providers, payment processors, online advertising network providers, and search engines. The third parties are then required to take appropriate and specific action related to their role in the Internet ecosystem.

The PROTECT IP Act includes safeguards to ensure that due process is provided to the site's owner, by using the Federal Rules of Civil Procedure for all aspects of any action, and allows the site's owner to have the order vacated **if it the site no longer has no significant use other than the theft of property**. The bill also protects third-parties from liability for any actions taken that are reasonably designed to comply with an order.

Actions By Rights Holders: The PROTECT IP Act also allows qualified plaintiffs - either the Attorney General or a holder of American intellectual property rights - to bring a similar injunctive action against a rogue website registered either in the United States or abroad. **The process is the same as exists for law enforcement, but the remedies are more limited.** The rights-holder may only serve the order, with leave of court, on payment processors and advertising networks. The same safeguards present in the Department of Justice action for plaintiffs and third parties exist under this section.

Support for the PROTECT IP Act

"[These 250 companies and trade associations] all understand...the simple equation: intellectual property equals jobs. **Rogue sites – the worst of the worst online IP thieves – are not only stealing America's most creative and innovative products, they are stealing American jobs.** Compounding this, rogue sites carefully cloaked to appear legitimate are often laden with malicious viruses, while some even sell dangerously defective goods that needlessly jeopardize the health and safety of American consumers. The 'PROTECT IP Act' is a necessary and important step forward in the struggle against counterfeiting and piracy." – *U.S. Chamber of Commerce on behalf of 250 business and associations, August 5, 2011*

"The seemingly nonstop proliferation of rogue websites testifies to the ineffectiveness of existing countermeasures. **The PROTECT IP Act offers workers and consumers important steps toward improving an intolerable situation.**" – *AFL-CIO, May 12, 2011*

"It is our experience that rogue websites, including foreign-based websites that pirate television broadcasts, have grown increasingly sophisticated in both appearance and operation, doing their best to mimic legitimate content delivery sites and deceive consumers into believing they are legitimate. Such websites undermine both the growth and stability of many industries, including ours, and the American jobs that they support. **We firmly believe that the PROTECT IP Act**

would provide valuable and necessary tools to help address such illegal websites and protect the U.S. economy.” –
Coalition Against Online Video Piracy, June 13, 2011

“Both broadcasters and the public suffer real harm from piracy and the rogue sites that cater to them. An inability to police these websites and other entities leads to the deterioration of overall program quality on free, over-the-air television...**Piracy threatens every content distribution business model, including local broadcasting**, making it essential that Congress promptly and wisely enact [The PROTECT IP Act].” – *National Association of Broadcasters, May 19, 2011*

Background on The PROTECT IP Act (S. 968)
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The bipartisan PROTECT IP Act was approved by the Senate Judiciary Committee by a unanimous voice vote on May 26, 2011. The legislation will protect American businesses and American workers by making it more difficult for operators of rogue websites, often based overseas, to steal American intellectual property. More than 40 Senators are cosponsors of the legislation, which is supported by hundreds of businesses, consumer advocacy groups, labor organizations and intellectual property coalitions. Related, bipartisan legislation has been introduced in the House of Representatives.